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10/574,123

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Antti Aaltonen

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EXAMINER

PHANTANA ANGKOOK, DAVID

ART UNIT

PAPER NUMBER

2175

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/574,123

**Applicant(s)**

AALTONEN, ANTTI

**Examiner**

David Phantana-angkool

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

1. This application has been reassigned to Examiner David Phantana-angkool.
2. This communication is in response to Amendment filed on October 27th, 2008.

***Claim Rejections - 35 USC § 103***

3. **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-5, 7-15, 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell, US 6,239,803.**

Regarding Claim 1, Driskell discloses a method to achieve least effort selection from an item list of arbitrary length as a technique to determine the number of items in a list to display the most appropriate number of items per page.

Driskell discloses the claimed aspect of a method defining at least three display areas that are substantially adjacent to each other in a first direction of a menu on a display of an electronic device, which menu comprises at least two function elements for selecting functions, in FIG. 1A, wherein an icon A, 1A08, Label #1, Icon D and Label #7 are displayed. (Driskell, FIG. 1A, multiple function elements).

Driskell discloses the claimed aspect of defining at least a first identification part and a second identification part that are contained in each function element of the at least two function elements in FIG. 1, wherein Label #1 defines Icon A, and Label #7 defines Icon D.

Driskell discloses the claimed aspect of displaying the first identification part of the at least two function elements in said first direction on an outermost display area of plural outermost display areas, displaying the second identification part of the at least two function elements (Label #1, Label #2) on at least one display area between said outermost display areas in such a

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manner that a second identification part of a first function element and a second identification part of a second function element are aligned at least substantially next to each other in a second direction substantially perpendicular to said first direction in FIGURE 1A, wherein Icon A is on most outermost display area and next to Label #1 and perpendicular to first direction.

Driskell does not specifically teach the claimed aspect of second function element has an identification part on the outermost. However, Driskell illustrates in FIG. 1, 1A08, Icon A (outermost) and label #1(substantially perpendicular to Icon A), it is would be obvious to one of ordinary skill in the art at the time of the invention in FIG. 1A, 1A02, to add an identification part/image/icon to the outermost on Label #2, because this would allow more efficient use of the space in small screen devices. Furthermore, two function elements (label #1 and label #2) are substantially next to each other and they both are substantially perpendicular.

Driskell discloses the claimed aspect of the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction in FIG. 1A08, wherein Label #1, #7 are illustrated with the same amount of area for Icon A and Icon D.

Driskell does not specifically teach the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction. However it would have been an obvious matter of design choice to a skilled artisan at the time of the invention was made to use the method of displaying the second identification party such that the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a

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known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396).

Regarding Claim 2, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of dimensions of the first identification part of the function element in the second direction are substantially larger than dimensions of the second identification part of the function element in said second direction in FIGURE 3A00, wherein  $i\text{IconHeight}$  is given large than the  $i\text{LabelHeight}$ .

Regarding Claim 3, most of the limitations have been met in the rejection of Claim 2. See the rejection of Claim 2 for details. Driskell discloses the claimed aspect of a size of the first identification part in the second direction is twice a size of the second identification part in said second direction in FIGURE 3A00, wherein  $i\text{LabelHeight}=8$  and  $i\text{IconHeight}=16$ .

Regarding Claim 4, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of first identification part is an image and the second identification part is a label in FIGURE 1A, wherein first identification part is an icon A and second identification part is Label #1.

Regarding Claim 5, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of at least one function

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element is connected to at least one of the functions of the device, wherein a plurality of list item target areas that include active rectangular areas responsive to pointing device selection.

(Driskell, Page 7, Paragraph 55).

Regarding Claim 7, most of the limitations have been met in the rejection of Claim 1. See the rejection of Claim 1 for details. Driskell discloses the claimed aspect of navigation between the first function element and the second function element is conducted in the second direction in FIGURE 1A.

Regarding Claim 8, Driskell discloses the claimed aspect a graphic user interface of an electronic device for presenting various menus (Driskell, See Field of Invention). The rejection for Claim 1 applies to Claim 8. See the rejection details for Claim 1.

Regarding Claim 9, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 2 applies to Claim 9. See rejection details for Claim 9.

Regarding Claim 10, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 3 applies to Claim 10. See rejection details for Claim 3.

Regarding Claim 11, most of the limitations have been met in the rejection of Claim 8. See the rejection of Claim 8 for details. The rejection for Claim 4 applies to Claim 11. See rejection details for Claim 4.

Regarding Claim 12, the method and system disclosed by Driskell could be used to achieve a device. The rejection for Claim 1 applies to Claim 12. See rejection details for Claim 1.

Regarding Claim 13, most of the limitations have been met in the rejection of Claim 12. See the

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rejection of Claim 12 for details. The rejection for Claim 2 applies to Claim 13. See the rejection details for Claim 2.

Regarding Claim 14, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 3 applies to Claim 14. See the rejection details for Claim 3.

Regarding Claim 15, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 4 applies to Claim 15. See the rejection details for Claim 4.

Regarding Claim 17, Driskell discloses a system comprising a display unit with a graphic user interface for presenting various menus. The rejection for Claim 1 applies to Claim 17. See the rejection details for Claim 1.

Regarding Claim 18, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 2 applies to Claim 18. See the rejection details for Claim 2.

Regarding Claim 19, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 3 applies to Claim 19. See the rejection details for Claim 3.

Regarding Claims 20, most of the limitations have been met in the rejection of Claim 17. See the rejection of Claim 17 for details. The rejection for Claim 4 applies to Claim 20. See the rejection details for Claim 4.

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Regarding Claim 21, Driskell discloses the claimed aspect of a software program of displaying a menu on a display of an electronic device, the program stored on a computer readable medium comprising a number of instructions for performing the steps in FIGURES 5A-8M, wherein software sections are illustrated. The rejection for Claim 1 applies to Claim 21. See the rejection details for Claim 1.

Regarding Claim 22, Driskell discloses the claimed aspect of a storage medium readable by a computer, inherently, because they teach the aspect of said medium containing information stored therein for performing the steps. The rejection for Claim 1 applies to Claim 22. See the rejection details for Claim 1.

**5. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell, US 6,239,803 in view of Twerdahl et al. US PG Pub# 2004/0221243 A1.**

Regarding Claim 6, most of the limitations have been met in the rejection of Claim 5. See the rejection of Claim 5 for details. Driskell does not teach the claimed aspect of a function, at least two function elements is a phone number directory, an image manager, a phone manager, a message manager or an electronic organizer. However, Twerdahl discloses the claimed aspect of function element being "Address", 318 could be define as a phone manager, "SMS", 308 could be defined as message manager in FIG. 2 and in FIG. 2 "Multimedia", 210 could be defined as an image manager. It would be obvious to one of ordinary skill in the art at the time of the invention to add Twerdahl's element function on Driskell's invention, because it will allow the users on small screen devices such as cell phone or PDA to view multiple element functions.

Regarding Claim 16, most of the limitations have been met in the rejection of Claim 12. See the rejection of Claim 12 for details. The rejection for Claim 6 applies to Claim 16. See the rejection details for Claim 6.

**It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be**



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limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In *re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In *re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

The Examiner notes MPEP § 2144.01, that quotes *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) as stating “in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” Further MPEP 2123, states that “a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. *Merck & Co. v. Biocraft Laboratories*, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

#### ***Response to Arguments***

6. Applicant's arguments filed 10/27/2008 have been fully considered but they are not persuasive.

7. Applicant argues *nowhere does Driskell disclose or suggest any situation wherein the second identification parts of the first and second function elements in combination occupy a substantially equivalent amount of space as occupied by the first identification part of the first function element in the second direction* (Applicant's Remarks, Pg. 10).

The Office respectfully disagrees.

8. Applicant argues amended limitation that was presented in the last Office Action. It is noted that the Driskell suggest the above limitation as shown on Pgs. 3 and 4 and also below:

Driskell does not specifically teach the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction. However it would have been an obvious matter of design choice to a skilled artisan at the time of the invention was made

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to use the method of displaying the second identification party such that the second identification part of the first function element and the second identification part of the second function element in combination occupy an amount of space that is substantially equivalent to an amount of space occupied by the first identification part of the first function element in said second direction, since such a modification would have involved the mere application of a known technique to a piece of prior art ready for improvement. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396).

From the reasoning set forth above, Driskell teaches and suggests all the limitations in independent claim 1 including: *second identification parts of the first and second function elements in combination occupy a substantially equivalent amount of space as occupied by the first identification part of the first function element in the second direction.*

9. Furthermore it is noted that during patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

Reference is made to MPEP 2144.01 - Implicit Disclosure

"[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would

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reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Phantana-angkool whose telephone number is 571-272-2673. The examiner can normally be reached on M-F, 9:00-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on 571-272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP

/David Phantana-angkool/  
Examiner, Art Unit 2175

/WILLIAM L. BASHORE/  
Supervisory Patent Examiner, Art Unit 2175